



HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
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PATENT APPLICATION

ATTORNEY DOCKET NO. 10012351-1

Inventor(s): Wenting Tang et al.

Confirmation No.: 5911

Application No.: 09/880,632

Examiner: G. G. Todd

Filing Date: June 12, 2001

Group Art Unit: 2157

METHOD AND SYSTEM FOR FRONT-END MODULAR TRANSMISSION CONTROL PROTOCOL (TCP)
Title: HANDOFF DESIGN IN A STREAMS BASED TRANSMISSION CONTROL PROTOCOL INTERNET
PROTOCOL (TCP/IP) IMPLEMENTATION

Mail Stop Amendment
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL LETTER FOR RESPONSE/AMENDMENT

Transmitted herewith is/are the following in the above-identified application:

- ☒ Response/Amendment
☐ New fee as calculated below
☒ No additional fee
☐ Other _____

- ☐ Petition to extend time to respond
☐ Supplemental Declaration

Fee\$

| CLAIMS AS AMENDED BY OTHER THAN A SMALL ENTITY | | | | | | |
|---|---|---|--|--|-------------|---------------------------|
| (1) FOR | (2) CLAIMS REMAINING AFTER AMENDMENT | (3) NUMBER EXTRA | (4) HIGHEST NUMBER PREVIOUSLY PAID FOR | (5) PRESENT EXTRA | (6) RATE | (7) ADDITIONAL FEES |
| TOTAL CLAIMS | 29 | MINUS | 29 | = 0 | X \$50 | \$ 0 |
| INDEP. CLAIMS | 3 | MINUS | 3 | = 0 | X \$200 | \$ 0 |
| <input type="checkbox"/> FIRST PRESENTATION OF A MULTIPLE DEPENDENT CLAIM | | | | | + \$360 | \$ 0 |
| EXTENSION FEE | <input type="checkbox"/> 1st Month \$120 | <input type="checkbox"/> 2nd Month \$450 | <input type="checkbox"/> 3rd Month \$1020 | <input type="checkbox"/> 4th Month \$1590 | | \$ 0 |
| OTHER FEES | | | | | | \$ |
| TOTAL ADDITIONAL FEE FOR THIS AMENDMENT | | | | | | \$ 0 |

Charge \$ 0 to Deposit Account 08-2025. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.

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Date of Deposit: May 5, 2006

Typed Name: Gail L. Miller

Signature: Gail L. Miller

I hereby certify that this is being deposited with the
United States Postal Service "Express Mail Post Office
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indicated above and is addressed to:
Commissioner for Patents, Alexandria, VA 22313-1450

Respectfully submitted,

Wenting Tang et al.

By Jody C. Bishop

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, Colorado 80527-2400

Docket No.: 10012351-1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Wenting Tang et al.

Application No.: 09/880,632

Confirmation No.: 5911

Filed: June 12, 2001

Art Unit: 2157

For: METHOD AND SYSTEM FOR FRONT-END
MODULAR TRANSMISSION CONTROL
PROTOCOL (TCP) HANDOFF DESIGN IN A
STREAMS BASED TRANSMISSION
CONTROL PROTOCOL INTERNET
PROTOCOL (TCP/IP) IMPLEMENTATION

Examiner: G. G. Todd

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the restriction requirement set forth in the Office Action mailed April 6, 2006, applicant hereby provisionally elects claims 1-10 and 12-13 (Group I) for continued examination, WITH TRAVERSE.

Traversal of Restriction as Being Improper

The current Office Action mailed April 6, 2006 requires restriction to one of 3 groups of claims that are alleged to be distinct. The group numberings identified in the current Office Action are used consistently herein, and are as follows:

- I. Claims 1-10 and 12-13;
- II. Claims 11 and 14-21; and
- III. Claims 22-29.

As explained further below, Applicant respectfully submits that the 3-way restriction required in the current Office Action is improper and should therefore be withdrawn.

A. No Serious Burden

M.P.E.P. § 803 provides that a restriction is only proper when there would otherwise be “a serious burden on the examiner”. In the instant case, examination of Groups I, II, and III in a common application does not place a serious burden on the examiner. Indeed, all of the pending claims 1-29 have already been examined together, *see* previous Office Actions mailed September 22, 2004 and April 20, 2005, which treated all of claims 1-29. Indeed, all of claims 1-29 have been advanced through prosecution to the point of appeal to the Board. The present restriction requirement is raised responsive to Applicant’s appeal brief submitted January 5, 2006. Accordingly, as the claims of Groups I, II, and III have already been subject to examination, no “SERIOUS burden” is placed on the Examiner in continuing to examine the present application with the claims of Groups I, II, and III.

If “the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.” M.P.E.P. § 803. Thus, a proper restriction has not been made in this case at least because a serious burden on the Examiner has not been established.

Further, the Examiner asserts that claims 1-10 and 12-13 of Group I are “drawn to a method of TCP state migration with optimized handling, classified in class 709, subclass 230”, *see* Page 2 of the Office Action. The Examiner further asserts that claims 11 and 14-21 of Group II are “drawn to a method of TCP state migration for establishing a session between a client and a selected best server, classified in class 709, subclass 227”, *Id.* However, claim 11 makes no mention of a “best server”. Further, both claim 1 and claim 11 address selecting a server and performing TCP state migration. For instance, claim 1 recites “c) parsing said HTTP request to determine which back-end web server, a selected back-end web server, in said plurality of back-end web servers can process said HTTP request, said selected back-end web server not said front-end node; d) extending said communication session to said selected back-end web server by handing-off an initial TCP state of said first BTCP module to said selected back-end web server” (emphasis added). Claim 11 recites “d) parsing said HTTP request to determine which back-end web server, a selected back-end web server, in said

plurality of back-end web servers contains said data in order to process said HTTP request, said selected back-end web server not said front-end node; e) extending said communication session to said selected back-end web server by handing-off an initial TCP state of said first BTCP module to a second BTCP module located at said selected back-end web server" (emphasis added). Thus, Applicant fails to understand the Office Action's classification of claim 1 as being "drawn to a method of TCP state migration with optimized handling" while claim 11 is classified as "drawn to a method of TCP state migration for establishing a session between a client and a selected best server". As demonstrated above, both claims 1 and 11 address TCP state migration, as well as a selected server.

Further, the Examiner asserts that claims 22-29 of Group III are "drawn to a communication network architecture for TCP state migration with extensive data modification, classified in class 709, subclass 246", *see* Page 2 of the Office Action. However, claim 22 makes no mention of "extensive data modification". Further, like claims 1 and 11 discussed above, claim 25 of Group III addresses performing TCP state migration to a selected server in that it recites "wherein said front-end BTCP module extends said communication session to said selected back-end web server by handing-off an initial TCP state of said front-end BTCP module to a second BTCP module located at said selected back-end web server" (emphasis added).

In view of the above, the Office Action fails to establish separate classification of the Groups of claims, and fails to establish a SERIOUS burden on the Examiner, particularly in view of all of the claims having been already searched and examined together.

B. Burden for Establishing Prima Facie Case of Restriction is Not Met

The Office Action asserts that the claims of Groups I-III are related as combination and subcombination. M.P.E.P. § 806.05 explains that claims related in this manner "are distinct if it can be shown that a combination as claimed: (A) does not require the particulars of the subcombination as claimed for patentability (to show novelty and nonobviousness), and (B) the subcombination can be shown to have utility either by itself or in another materially different combination."

While the current Office Action alleges on page 3 that the claims of Groups I-III do not require the particulars of each other, the Office Action fails to establish separate utility for the subcombination. M.P.E.P. § 806.05(c) makes clear that the "burden is on the examiner to suggest an example of separate utility." Such an example is lacking in the current Office Action, but instead provides merely conclusory statements regarding certain elements of a Group not required in other Groups.

For at least the above reasons, the restriction as between Group I-III has not been established and should be withdrawn.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 08-2025, under Order No. 10012351-1 from which the undersigned is authorized to draw.

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, Label No. M/S Amendment in an envelope addressed to: EV 568257241US, Commissioner for Patents, Alexandria, VA 22313.

Date of Deposit: May 5, 2006

Typed Name: Gail L. Miller

Signature: Gail L. Miller

Respectfully submitted,

By: Jody C. Bishop

Jody C. Bishop
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